

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-54919-2023

Date of Decision:16.11.2023

Mahinder Yadav @ Mahendra Yadav

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Kanwaljeet Singh, Advocate for
the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 131 dated 30.07.2023, under Section 18 of NDPS Act, registered at Police Station GRP Ludhiana, District Govt. Railway Police/Ludhiana, Annexure P-1.

2. As per the case of the prosecution, on 30.07.2023, the petitioner/accused was apprehended with 1.500 gram of opium without any permit or license and the present case was ordered to be registered against him.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case. Even the quantity of opium i.e 1.500 gram falls under "non-commercial category". Learned counsel further contends that the petitioner was arrested in the present case on 30.07.2023 and the challan has already been presented against him. Since the recovery of the alleged contraband is "non-commercial" in nature and the rigors of section 37

of the NDPS Act would not apply against him and he is liable to be enlarged on bail.

3. On the other hand learned State counsel has vehemently opposed the prayer on the ground that the serious allegations have been levelled against the present petitioner and he does not deserve the concession of bail.

4. I have heard the learned counsel for the parties and perused the record.

5. It is apparent from the record that the recovery of contraband from the petitioner is “non-commercial” in nature and the stringent provisions of Section 37 of the NDPS Act would not apply to the facts of the present case. The petitioner is in custody for the last more than 03 months and further detention of would not serve any meaningful purpose.

6. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

16.11.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No